

REMARKS

This paper responds to the Office Action issued for the above-identified application on June 1, 2005. Claims 1-14 are pending in the instant application. Claims 1-14 stand rejected.

In the Office Action, the Examiner rejected claims 13 and 14 under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such as omission amounting to a gap between the steps. The Examiner stated that the omitted steps are any steps detailing the chemical synthesis conditions of the named compound.

In response to the above rejection, the Applicants have amended claim 13 to include the step of admixing the starting materials of the reaction and to include the temperature reading at which the reaction proceeds. No additional synthesis steps or reaction conditions are necessary for the reaction to proceed.

The support for the amendment to claim 13 is found in the Example I of the instant application.

The rejected claim 14 is dependent on claim 13. Therefore, it includes the recitation of elements provided in claim 13, as described above. Accordingly, the Applicants respectfully submit that these claims fully recite the steps for carrying out the reaction. Accordingly, reconsideration and withdrawal of the

rejection of the claims 13 and 14 is respectfully requested.

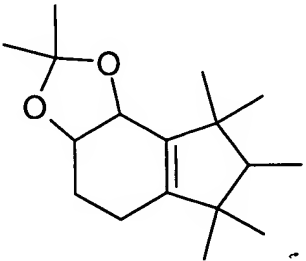
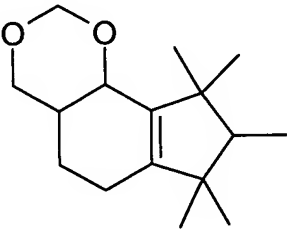
In the Office Action, the Examiner rejected claims 1-12 under 35 U.S.C. 103(a) as being unpatentable over US 6,303,798. The Examiner states that the compound claimed in '798 patent differs from the instantly claimed compound in that the dioxin ring has 6 members, rather than 5. The Examiner further states that the two compounds are positional isomers or homologs and therefore the two compounds are generally of sufficiently close similarity that there is a presumed expectation that such compounds possess similar properties.

Applicants respectfully traverse this rejection. Applicants submit that the compound claimed in '798 patent and the compound claimed in the instant application belong to different category of chemical compounds. Furthermore, the two compounds are prepared via different mechanisms from the different precursors.

In contrast to the Examiner's statement that the compounds are obvious in view of each other, the two compounds exhibit different chemical and olfactory properties. To support the above argument, the Applicants respectfully direct Examiner's attention to column 1 of the '798 patent. The second paragraph of the Detailed Description of the Invention of the '798 patent states that the compound of the claimed invention has a powerful musk fragrance, with sweet, powdery, spicy and nitromusk notes. In contrast, the compound of the instant application has a woody or mossy odor property.

In further support of this argument, the Applicants enclose herewith a Declaration Under 37 C.F.R. §1.132 provided by Dr. Anthony T. Levorse Jr., Ph.D., who is a Research Fellow at the International Flavors & Fragrances Inc. In the Declaration, Dr. Levorse Jr. describes the differences between the compound claimed in the '798 patent and the compound claimed in the instant application. It is an opinion of Dr. Levorse Jr. that the compound claimed in the '798 patent and the compound claimed in the instant application are structurally different compounds, which exhibit different chemical properties.

For clarity purposes, the table below is presented to illustrate the differences between the compounds in question.

Compound		
Class	1,3-dioxole	1,3-dioxin
Synthesis	One step oxidation/acetone ketal formation reaction of the corresponding diene	Reaction of the corresponding indane with formaldehyde
Olfactory Properties	powerful musk, with sweet, powdery, spicy and nitromusk notes	woody or mossy notes

As illustrated in the table above, the compound of the present invention is a 1,3-dioxole, whereas the compound claimed in the '798 patent is a 1,3-dioxin. The compound of the present invention is prepared by a one step oxidation/acetone ketal formation reaction of the corresponding diene, whereas the compound claimed in the '798 patent is prepared by the reaction of the corresponding indane with formaldehyde. The compound of the instant application has a woody or mossy odor property, whereas the compound claimed in the '798 patent is a powerful musk fragrance, with sweet, powdery, spicy and nitromusk notes.

In view of the above, the Applicants believe that due to the differences of the chemical and olfactory properties of the two compounds mentioned above, one with an ordinary skill in the art would not have been motivated to make the compound claimed in the instant application. Therefore, the Applicants respectfully request the rejection under 35 U.S.C. 103(a) of claims 1-12 be withdrawn.

In further support of the allowability of the claims presented herein, the Applicants hereby submit that the instant patent application and U.S. patent 6,303,798 were, at the time the invention of the instant application was made, commonly owned by International Flavors & Fragrances Inc. Executed Terminal Disclaimer and Statement Under 3.73(b) forms are enclosed herewith. Therefore, the Applicants respectfully submit that the rejection of claims 1-12 under 35 U.S.C. 103(a) over U.S. Patent 6,303,798 is improper and the Applicants respectfully request this rejection be withdrawn.

Accordingly, the Applicants respectfully submit that the claims as presented are in full compliance with all statutory provisions. No new matter has been added.

The Commissioner is authorized to charge the appropriate extension of time fee or any other fee required in connection with this application to the Deposit Account 12-1295.

Early and favorable consideration of the pending claims is earnestly solicited.

Respectfully submitted,



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Encl.: DECLARATION UNDER 37 C.F.R. §1.132
Terminal Disclaimer
Statement Under 37 CFR 3.73(b)